



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,016	12/12/2003	Richard W. Levaughn	2G02.1-080	5580

23506 7590 04/07/2006

GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

EXAMINER

POUS, NATALIE R

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/737,016

Applicant(s)

LEVAUGHN ET AL.

Examiner

Natalie Pous

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 69-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 69, 72, 74-79, 81-84 and 86-90 is/are rejected.
- 7) ☒ Claim(s) 70, 71, 73, 80 and 85 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/15/04, 4/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 69, 72, 74-79, 81-84, and 86-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Schraga (US 6228100).

4. Regarding Claim 69 Schraga, teaches a lancet cartridge for a lancing device comprising: a plurality of lancets (70), each lancet comprising a protective cap (72); a carrier (46) retaining said plurality of lancets in a plane and defining a path of travel within the plane for each of said plurality of lancets; at least one guide member (54) in engagement with the protective cap (72) of each of said plurality of lancets (fig. 1) and a spring (94) biasing the protective cap of each of said plurality of lancets out of the plane.

5. Regarding Claim 72, Schraga teaches the lancet cartridge of Claim 69, wherein the carrier comprises a pair of upright walls bounding the sides of each of said plurality of lancets to define the path of travel of the lancets (Column 3 proximate lines 35-40).

6. Regarding Claim 74, Schraga teaches the lancet cartridge of Claim 69, wherein the carrier is a generally circular disk (46), and wherein the plurality of lancets are arranged generally radially about the perimeter of the carrier (fig. 4).

7. Regarding Claim 75, Schraga teaches the lancet cartridge of Claim 69, wherein each lancet comprises at least one cantilevered spring element for engagement with said carrier to bias the lancet toward a retracted position.

8. Regarding Claim 76, Schraga teaches a lancet cartridge comprising: at least one lancet (70) having a protective cap (72) removably mounted thereon, said at least one lancet constrained to a generally linear path of travel; a spring (94) for biasing the protective cap of each lancet out of the path of travel upon separation of the protective cap from the lancet (Column 4, proximate lines 1-13).

9. Regarding Claim 77, Schraga teaches the lancet cartridge of Claim 76, further comprising at least one guide member (92) in engagement with the protective cap to guide the protective cap out of the path of travel of the lancet under the influence of the spring (Column 4, proximate lines 1-13).
10. Regarding Claim 78, Schraga teaches the lancet cartridge of Claim 76, wherein said spring comprises a flat section in engagement with the protective cap of each said lancet (Column 4, proximate lines 1-13).
11. Regarding Claim 79, Schraga teaches the lancet cartridge of Claim 76, wherein each lancet is slidably (Column 3, proximate lines 35-37) mounted on a carrier (56), said carrier comprising walls defining a path of travel for each lancet.
12. Regarding Claim 81, Schraga teaches the lancet cartridge of Claim 79, wherein each lancet comprises a resilient tongue (76) for engagement with said carrier to bias the lancet toward a retracted position (fig. 2).
13. Regarding Claim 82, Schraga teaches the lancet cartridge of Claim 79, wherein the carrier is a generally circular disk, and wherein the plurality of lancets are arranged generally radially about a central axis of the disk (fig. 4).
14. Regarding Claim 83, Schraga teaches a lancet cartridge for replaceable insertion in a lancing device, said cassette (46) comprising: a disk-shaped carrier (46) having a first face (80) comprising a series of teeth (62) for cooperative engagement with an advancing mechanism (64) of the lancing device and a second face comprising walls defining a plurality of radial paths (54) and a plurality of lancets (70), each lancet translationally mounted in one of said radial paths (fig. 1).

Art Unit: 3731

15. Regarding Claim 84, Schraga teaches the lancet cartridge of Claim 83, further comprising a spring (94) for biasing a separable endcap (72) portion of each lancet (70) out of a plane defined by the plurality of radial paths (54).

16. Regarding Claim 86, Schraga teaches the lancet cartridge of Claim 83, further comprising a cantilevered arm comprising a locating finger (76) for alignment within a cartridge alignment recess (26) of the lancing device.

17. Regarding Claim 87, Schraga teaches the lancet cartridge of Claim 87, further comprising a cartridge stop for preventing re-use of the plurality of lancets (Column 7, proximate lines 39-57).

18. Regarding Claim 88, Schraga teaches the lancet cartridge of Claim 83, wherein said series of engagement teeth permit advancement in a first direction and prevent advancement in a second direction opposite the first direction (Column 7, proximate lines 39-57).

19. Regarding Claim 89, Schraga teaches a method of obtaining a sample of body fluid using a lancing device, said method comprising: cocking the lancing device (fig. 2) to engage a first lancet with a drive mechanism (20), arm the drive mechanism, separate a protective cap from said first lancet, and remove the protective cap from a path of travel of the first lancet (Column 4, proximate lines 1-13); and actuating the lancing device (35) to drive the first lancet along the path of travel.

20. Regarding Claim 90, Schraga teaches the method of Claim 89, further comprising again cocking the lancing device to engage a second lancet with the drive mechanism, arm the drive mechanism, separate a protective cap from said second

Art Unit: 3731

lancet, and remove the protective cap from a path of travel of the second lancet (Column 5, proximate lines 60-67).

Allowable Subject Matter

21. Claims 70, 71, 73, 80 and 85 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

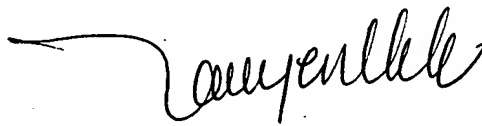
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie Pous whose telephone number is (571) 272-6140. The examiner can normally be reached on Monday-Friday 8:00am-5:30pm, off every 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NRP
3/29/06



(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER

4/3/06